

**TESTIMONY OF THE  
HONORABLE MELANIE BENJAMIN  
CHIEF EXECUTIVE OF  
THE NON-REMOVABLE MILLE LACS  
BAND OF OJIBWE INDIANS  
ONAMIA, MINNESOTA**

***Before the Senate Committee on Indian Affairs  
June 19, 2001***

Mr. Chairman and Members of the Committee, my name is Melanie Benjamin. I am the Chief Executive of the Mille Lacs Band of Ojibwe from Onamia, Minnesota. It is an honor to present the views of the people of the Mille Lacs Band to the Committee.

Today, I respectfully request that the Committee introduce legislation in three different areas.

First, amendments to Title IV of Public Law 93-638, the Self-Governance Act as it applies to the Bureau of Indian Affairs (BIA) and the Department of the Interior, are needed to reflect advances made in Title V.

Second, legislation relating to the transfer into trust, immunity from the exercise of local and state jurisdiction, and non-alienability of tribal fee land within reservation boundaries should be introduced.

Third, an economic development grant program should be established under Public Law 102-477 to create new jobs in Indian country for those formerly under general assistance programs who are now attempting to achieve self-sufficiency.

**TITLE IV AMENDMENTS AND TRIBAL SELF-GOVERNANCE**

The development of self-governance is probably the most significant enhancement of the United States/Tribal Government Relationship since the treaty era. Through self-governance, the Band has been able to develop economic activities to employ its members, construct facilities for education and health needs, and establish public water systems and housing. Over the past ten years, the Band has made unprecedented progress unlikely to be matched in the future by any BIA program.

As the Committee knows, in 1994 Congress passed Public Law 103-413, the Tribal Self-Governance Act. This Act made tribal self-governance a permanent principle of the Department of the Interior's administration of Indian affairs. Last

year, the Congress passed Public Law 106-260, which made self-governance a permanent part of the Indian Health Service and included a demonstration project in the Department of Health and Human Services regarding self-governance. Titles V and VI of the Self-Governance Act are vast improvements over the existing provisions in Title IV. Hence, I respectfully request that the Committee consider amending Title IV.

As a member of the Rulemaking Committee on Title V, I have noted that, unlike the current version of Title IV, improvements in the Title V statute have enabled the Committee to draft regulations quickly and effectively. For example, Title V contains a definition of "inherent federal function". The absence of this definition in Title IV caused a delay of several months in the Rulemaking process. (In the end, the Federal side would not agree to insert the definition in the Title IV rules in spite of a Solicitor's Opinion defining the term.) In fact, the Title IV regulations took over five years to draft. It appears that the Title V regulations will be completed in the time required in the statute. Hence, various amendments to Title IV are needed. The obstinacy of the BIA in defining "inherent federal function" is indicative of their overall approach of protecting the Bureau as opposed to advancing self-governance. Failure to deal honorably with self-governance, and a readiness to delay through word games, has created a whole host of problems for self-governance tribes. A very important example deals with the very basis of self-governance; the control of dollars.

It was the belief of the Mille Lacs Band when it entered the self-governance movement that when the Bureau of Indian Affairs received a budget increase, we would receive a budget increase. Based on a cursory review of the appropriations for the BIA over the past seven years, we note that the Bureau has received a substantial increase. During this same time period, the Mille Lacs Bands' base budget has declined. It is our view that our budget should reflect gains made by the BIA.

Our base funding should increase with the BIA budget. Our initial base funding was derived from tribal "638" contracts along with tribal shares from other programs. The base funding was a combination of Bureau programs compacted for and, in some cases, additional funding from a fund called "shortfall," which was determined by the Office of Self-Governance. When the Mille Lacs Band Government developed its initial base funding we took all programs we were eligible for and developed a base-funding amount. It was our understanding that this base funding would parallel to the funding level of the Bureau's program. However, this has not been the case.

Attached is a summary of what has happened with our funding versus what has happened with Bureau funding over the last seven years. Because the Band

government compacts all eligible programs, the analysis of what has happened to funding is very clear. Under self-governance, the funding the Band received from 1993-2000 has decreased by 5% whereas the Bureau's budget has increased 20% over the same time period. It is our belief that this was never the intent of the self-governance policy and that our base level funding should increase proportionally with the Bureau's budget. In 1995, during the period of the Graham/Rudman budget cuts, our base funding was reduced at the same level as all other federal programs. Yet, as the Bureau developed its budget it initially kept our base funding at the same level, and only when Congress passed additional funding did we see any increase in our funding. (It should be noted that we took a 17% cut in 1995, whereas the BIA took only a 10% reduction.) Hence, the Congress needs to step in on behalf of self-governing tribes to ensure that our increases are commensurate with BIA increases.

We believe that this issue should be addressed in legislation, and is currently detrimental to self-governance Policy. The solution is to require the funding of tribal base level budgets at a level proportional to the funding increase in the BIA and Department of Interior Budgets.

## **LEGISLATION ON TRIBALLY OWNED FEE LANDS**

There are few statutes relating specifically to the status of fee simple lands owned by a tribal government within the reservation, and this lack of guidance is generating a large number of issues. The result is that courts have to determine many matters without any guidance. Furthermore, because of the difficulty in moving land into trust, there are numerous problems developing out of this issue as well.

The Mille Lacs Band would like to see an improvement in the current system of transferring land from fee simple status to Federal trust status. Congress should consider the enactment of legislation that would provide a special status for tribally owned fee lands within reservation boundaries. Many of these lands are being used for tribal government purposes. In spite of this fact, these lands are subject to certain types of jurisdiction exercised by counties and states. This includes subjecting these tribal lands to taxation by another sovereign. We believe that one way to deal with these issues would be legislation that deems lands within reservations, when owned by the tribal government and used for governmental purposes, to be non-alienable and immune to the jurisdiction of any sovereign other than that of the owning tribe, except as provided by federal law.

## **NEW ECONOMIC DEVELOPMENT AMENDMENT**

Public Law 102-477, the Indian Employment and Training and Related Services Demonstration Act of 1992, allows Tribes to integrate the employment, training and related service they provide in order to improve the effectiveness of these services, reduce joblessness and serve tribally-determined goals. Many Tribes have adopted new and innovative approaches to restructuring and integrating their services utilizing Public Law 102-477. Indian tribes struggle with limited resources and lack of employment opportunities on reservations and have made great strides in offering coordinated support services to their tribal members. For generations poverty has been prevalent in many of our Indian communities, in part as a result of past federal policy. Many tribes suffer from extremely high unemployment rates. Because of the remoteness of most Indian reservations, economic development and job opportunities are few.

There is a major unmet need in Indian Country for an economic development initiative which creates employment opportunities for tribal members moving from public assistance to self-sufficiency.. Without job opportunities, any welfare-to-work programs will fail. The Mille Lacs Band would like to propose that Congress develop a Tribal Demonstration Project which would include economic development grants. The grant program would assist tribes in the development and implementation of management and infrastructure capability; coordinate economic development related programs and services more effectively; assist in developing tribal business ordinances; and generally encourage economic development. This demonstration project should have stable base funding and be awarded to competitively selected Indian Tribes and Alaskan Native Villages for comprehensive economic development. The project would encourage tribes to design, improve or expand economic goals that use the available human, natural, financial, and physical resources to which the tribes have access.

Such an amendment would fight the poverty that exists on many reservations across this country. Indian families cannot move from welfare to work if there is no work.

## **CONCLUSION**

The Mille Lacs Band looks forward to working with the Committee on these and other issues. We believe in the preservation and protection of our land whether it is held in trust or fee as well as self-governance and economic development for ourselves and all Indian tribes. We believe that the proposed legislation I have outlined are positive steps in achieving all of these goals and therefore ask you to seriously consider adoption of legislation incorporating these measures. For this opportunity to share the views of the Mille Lacs Band, I say “Miigwetch” – thank you.

